CWP No.1142 of 2004.

5.7. 2007 Present : Mr.Surinder Sharma, counsel for the petitioner.
Mr.M.S.Chandel, A.G. with Mr.A.Burathoki,Addl.A.G.
for respondent Nos.1 to 3.

This writ petition is directed against an order of the learned H.P. State Administrative Tribunal dated 30.11.2004 whereby the petitioner herein has been directed to renew the contract of the original applicant Jagdish Chand within a period of two weeks.

The learned Tribunal in para 4 of the order has noted that the respondents have failed to file the reply to the O.A. despite various adjournments having been granted. The Tribunal has proceeded to decide the matter solely on the basis of the averments made in the Original Application and on the premise that no reply has been filed.

Alongwith the writ petition, the petitioner herein has annexed a copy of the order dated 29.9.2004 passed by the learned Tribunal which shows that reply to the O.A. has been filed by respondent No.4 and the same has been ordered to be taken on record. However, to verify this fact we had called for the record of the Tribunal and find that reply of respondent No.4 has been placed on record and is at page 59 of the record of the Tribunal. It is thus obvious that the Tribunal has gravely erred in proceeding on the basis that no reply has been filed and further has not taken into consideration the reply filed by respondent No.4. We are not going into the merits of the case which we feel should be decided by the Tribunal after considering the reply filed by the present petitioner who is respondent No.4 before the Tribunal. Since the order of the Tribunal dated 30.11.2004 is based on total mis-apprehension of the

factual position, fact, the same is set-aside and the matter is remitted to the learned Tribunal for deciding the same afresh in accordance with law after considering the pleadings and arguments of the parties.

The writ petition is disposed of in the aforesaid terms. No order as to costs.

In view of the disposal of the writ petition CMP No.1911 of 2004 is also disposed of.

(Deepak Gupta),
A.C.J.

July 5, 2007 **(V.K. Ahuja)**
PV **Judge.**